

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

FILED BY CLERK

JULY 12 2007

COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,)	
)	
Appellee,)	2 CA-CR 2006-0443
)	DEPARTMENT B
v.)	<u>MEMORANDUM DECISION</u>
)	Not for Publication
RUBEN ALBERT LEMON, JR.,)	Rule 111, Rules of
)	the Supreme Court
Appellant.)	
_____)	

APPEAL FROM THE SUPERIOR COURT OF PIMA COUNTY

Cause No. CR-20023079

Honorable Richard Nichols, Judge

AFFIRMED

Emily Danies

Tucson
Attorney for Appellant

V Á S Q U E Z, Judge.

¶1 A jury found appellant Ruben Albert Lemon, Jr. guilty of theft by control, unlawful possession of cocaine, and two counts of prohibited possession of a deadly weapon. The trial court imposed consecutive sentences, two presumptive and two aggravated, totaling 9.5 years in prison. On appeal, we affirmed Lemon's convictions but remanded the case for resentencing pursuant to *Blakely v. Washington*, 542 U.S. 296, 124

S. Ct. 2531 (2004), on the two counts on which the court had imposed aggravated sentences. *State v. Lemon*, No. 2 CA-CR 2004-0117 (memorandum decision filed Nov. 14, 2005).

¶2 The trial court resentenced Lemon to presumptive terms, reducing his aggravated, 1.5-year sentence for theft to a one-year term and his aggravated, three-year sentence for prohibited possession to a 2.5-year term. Because the consecutive nature of the sentences did not change, resentencing reduced the total length of Lemon’s sentences from 9.5 to 8.5 years.

¶3 In this appeal from his resentencing, Lemon’s counsel has filed a brief in compliance with *Anders v. California*, 386 U.S. 738, 87 S. Ct. 1396 (1967), and *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999). Counsel states she has reviewed the record without finding an arguable legal issue to raise and asks us to search the record for fundamental error. She suggests the trial court’s imposition of consecutive rather than concurrent sentences might “have resulted in an abuse of discretion by the trial court.”

¶4 Counsel has satisfied the requirements of *Clark* by “setting forth a detailed factual and procedural history of the case with citations to the record, [so] this court can satisfy itself that counsel has in fact thoroughly reviewed the record.” 196 Ariz. 530, ¶ 32, 2 P.3d at 97. Lemon has not filed a supplemental brief.

¶5 We have reviewed the record pursuant to our obligation under *Anders* and have found no fundamental error. The imposition of consecutive sentences was not an abuse

of the trial court's discretion. *See generally* A.R.S. § 13-708. We affirm the consecutive, presumptive sentences imposed on resentencing.

GARYE L. VÁSQUEZ, Judge

CONCURRING:

PHILIP G. ESPINOSA, Judge

J. WILLIAM BRAMMER, JR., Judge